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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UMG RECORDINGS, INC, CAPITOL RECORDS, LLC, CONCORD BICYCLE ASSETS, LLC, CMGI RECORDED MUSIC ASSETS LLC, SONY MUSIC ENTERTAINMENT, AND ARISTA MUSIC.

Plaintiffs,

V.

INTERNET ARCHIVE, BREWSTER
KAHLE, KAHLE/AUSTIN FOUNDATION,
GEORGE BLOOD, and GEORGE BLOOD, L.P.

Defendants.

CASE NO. 3:23-CV-06522-MMC

**DEFENDANT KAHLE/AUSTION
FOUNDATION'S ANSWER TO PLAINTIFF'S
AMENDED COMPLAINT**

JURY TRIAL DEMANDED

1 Defendant the Kahle Austin Foundation (the Foundation), by and through its undersigned
2 counsel, hereby submits its Answer and Affirmative Defenses in response to UMG Recordings, Inc.,
3 Capitol Records, LLC, Concord Bicycle Assets, LLC, Sony Music Assets, LLC, Sony Music
4 Entertainment, and Arista Music's (collectively, Plaintiffs) Amended Complaint.

5 To the extent not specifically admitted, the Foundation denies each and all allegations. The
6 Complaint refers repeatedly to Defendants collectively, without distinguishing individual Defendants.
7 Unless otherwise and specifically admitted, the Foundation lacks knowledge concerning the allegations
8 relating to the actions of the Internet Archive, George Blood, and George Blood L.P., and therefore
9 denies all such allegations on that basis. Further, unless otherwise and specifically admitted, the
10 Foundation lacks knowledge concerning alleged statements or actions Mr. Kahle took outside his
11 capacity as an officer of the Foundation and therefore denies all such allegations on that basis.

12 The Foundation denies that it has caused Plaintiffs any harm, losses, or damages. The
13 Foundation reserves the right to challenge the admissibility of all documents or sources cited by
14 Plaintiffs in the Amended Complaint. With respect to the multiple allegations that purport to cite or
15 quote other documents or sources, such documents speak for themselves.

16 The Foundation respectfully demands trial by jury on all eligible issues.

17 **NATURE OF THE ACTION¹**

18 1. This Paragraph contains legal conclusions which require no answer. To the extent an
19 answer is required, the Foundation admits the Amended Complaint brings an action under United States
20 copyright law. The Foundation denies all remaining allegations of this Paragraph.

21 2. This Paragraph contains legal conclusions which require no answer. To the extent an
22 answer is required, the Foundation denies the allegations of this Paragraph.

23 3. This Paragraph contains legal conclusions which require no answer. With respect to
24 allegations that purport to cite or quote other documents or sources, such documents speak for themselves.
25 The Foundation lacks knowledge concerning the allegations in this Paragraph that purport to concern the
26

27

¹ The Foundation repeats the headings from the Amended Complaint for organizational purposes only.
28 The repetition of such headings is not intended as an admission. The Foundation denies all allegations
suggested by such headings.

1 Internet Archive, George Blood, and George Blood, L.P. and therefore denies such allegations. The
2 factual allegations concerning Mr. Kahle relate to purported statements made outside his capacity as an
3 officer of the Foundation. Accordingly, the Foundation lacks knowledge concerning such allegations and
4 denies them. The Foundation denies the remaining allegations of this Paragraph.

5 4. This Paragraph contains legal conclusions which require no answer. To the extent an
6 answer is required, the Foundation denies the allegations of this Paragraph.

7 5. The Foundation lacks knowledge sufficient to admit or deny the allegations of this
8 Paragraph, and therefore denies them.

9 6. The Foundation admits that the Orrin G. Hatch-Bob Goodlatte Music Modernization Act
10 was passed by Congress in 2018. Otherwise, this Paragraph contains legal conclusions which require no
11 answer. To the extent an answer is required, the Foundation denies the remaining allegations of this
12 Paragraph.

13 7. The Foundation lacks knowledge sufficient to admit or deny the allegations of this
14 Paragraph, and on that basis, denies them.

15 8. This Paragraph contains legal conclusions which require no answer. To the extent an
16 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
17 Paragraph, and on that basis, denies them.

18 9. This Paragraph contains legal conclusions which require no answer. To the extent an
19 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
20 Paragraph, and on that basis, denies them.

21 10. This Paragraph contains legal conclusions which require no answer. To the extent an
22 answer is required, Mr. Kahle's alleged actions in this Paragraph are outside the scope of his position as
23 an officer of the Foundation. The Foundation therefore lacks knowledge sufficient to admit or deny the
24 allegations of this Paragraph, and on that basis, denies them. The Foundation denies the remaining
25 allegations of this Paragraph.

26 11. This Paragraph contains legal conclusions which require no answer. To the extent an
27 answer is required, the Foundation admits that Brewster Kahle is the president of the Kahle/Austin
28 Foundation. The Foundation lacks knowledge sufficient to admit or deny the allegations concerning the

1 Internet Archive, and on that basis, denies them. The Foundation denies the remaining allegations of this
2 Paragraph.

3 12. The Foundation lacks knowledge sufficient to admit or deny the allegations of this
4 Paragraph, and on that basis, denies them.

5 13. This Paragraph contains legal conclusions which require no answer. To the extent an
6 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
7 Paragraph, and on that basis, denies them. With respect to allegations that purport to cite or quote other
8 documents or sources, such documents speak for themselves.

9 14. This Paragraph contains legal conclusions which require no answer. To the extent an
10 answer is required, the Foundation denies the allegations of this Paragraph.

11 15. This Paragraph contains legal conclusions which require no answer. To the extent an
12 additional response is required, the Foundation lacks knowledge sufficient to admit or deny the remaining
13 allegations of this Paragraph, and on that basis, denies them. With respect to allegations that purport to
14 cite or quote other documents or sources, such documents speak for themselves.

15 16. This Paragraph contains legal conclusions which require no answer. To the extent an
16 additional response is required, the Foundation denies the remaining allegations of this Paragraph. With
17 respect to allegations that purport to cite or quote other documents or sources, such documents speak for
18 themselves.

19 17. This Paragraph contains legal conclusions which require no answer. To the extent an
20 answer is required, the Foundation denies the allegations of this Paragraph.

21 18. The Foundation lacks knowledge sufficient to admit or deny the allegations of this
22 Paragraph, and on that basis, denies them

23 19. This Paragraph contains legal conclusions which require no answer. To the extent an
24 answer is required, the Foundation denies the allegations of this Paragraph.

25 20. This Paragraph contains legal conclusions which require no answer. To the extent an
26 answer is required, the Foundation denies the allegations of this Paragraph.

PLAINTIFFS AND THEIR LEGALLY PROTECTED MUSIC

21. The Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

22. The Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

23. The Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

24. The Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

25. The Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

26. The Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

27. The Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

28. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

DEFENDANTS

29. The Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

30. The Foundation admits that it is a Washington non-profit corporation organized under the laws of Washington which has been associated with addresses at 319 Main Street, Biddeford, ME 04005-2354 and 513 Simonds Loop, San Francisco, CA 94129-1787.

31. The Foundation admits that Brewster Kahle resides in San Francisco, CA, and that Mr. Kahle is the president of the Kahle/Austin Foundation. Mr. Kahle's alleged role with the Internet Archive is outside the scope of his position as an officer of the Foundation. The Foundation therefore lacks

1 knowledge sufficient to admit or deny the remaining allegations of this Paragraph, and on that basis, denies
2 them. The Foundation denies the remaining allegations of this Paragraph.

3 32. The Foundation lacks knowledge sufficient to admit or deny the allegations of this
4 Paragraph, and on that basis, denies them.

5 33. The Foundation lacks knowledge sufficient to admit or deny the allegations of this
6 Paragraph, and on that basis, denies them.

7 **JURISDICTION AND VENUE**

8 34. This Paragraph contains legal conclusions which require no answer. To the extent an
9 answer is required, the Foundation admits that the Amended Complaint purports to be an action arising
10 under the Copyright Act, 17 U.S.C. §§ 101, *et seq.*, and the Music Modernization Act, 17 U.S.C. § 1401.

11 35. This Paragraph contains legal conclusions which require no answer. To the extent an
12 answer is required, the Foundation admits this Court has subject matter jurisdiction under 28 U.S.C. §§
13 1331 and 1338.

14 36. This Paragraph contains legal conclusions which require no answer. To the extent an
15 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
16 Paragraph, and on that basis, denies them.

17 37. This Paragraph contains legal conclusions which require no answer. To the extent an
18 answer is required, the Foundation denies the allegations of this Paragraph.

19 38. The Foundation lacks knowledge sufficient to admit or deny the allegations of this
20 Paragraph and on that basis denies them.

21 39. This Paragraph contains legal conclusions which require no answer. To the extent an
22 answer is required, Mr. Kahle's alleged role with the Internet Archive is outside the scope of his position
23 as an officer of the Foundation. The Foundation therefore lacks knowledge sufficient to admit or deny
24 the remaining allegations of this Paragraph, and on that basis, denies them. The Foundation lacks
25 knowledge sufficient to admit or deny the remaining allegations of this Paragraph, and on that basis, denies
26 them.

27 40. This Paragraph contains legal conclusions which require no answer. To the extent an
28 answer is required, the Foundation admits that it has received donations from the Kahle/Austin Revocable

1 Trust. The Foundation further admits that it is organized under the laws in Washington state. The
2 Foundation denies the remaining allegations of this Paragraph. With respect to allegations that purport to
3 cite or quote other documents or sources, such documents speak for themselves.

4 41. This Paragraph contains legal conclusions which require no answer. To the extent an
5 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
6 Paragraph, and on that basis, denies them.

7 42. This Paragraph contains legal conclusions which require no answer. To the extent an
8 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
9 Paragraph, and on that basis, denies them.

10 43. For purposes of this action only, the Foundation admit that venue is proper in this District.
11 Otherwise, this Paragraph contains legal conclusions which require no answer. To the extent an answer
12 is required, the Foundation denies the remaining allegations of this Paragraph.

13 **FACTUAL BACKGROUND**

14 **I. IN 2018, CONGRESS EXTENDED FEDERAL PROTECTION TO PRE-1972 SOUND** **RECORDINGS**

15 44. This Paragraph contains legal conclusions which require no answer. To the extent an
16 answer is required, the Foundation denies the allegations of this Paragraph.

17 45. This Paragraph contains legal conclusions which require no answer. To the extent an
18 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
19 Paragraph, and on that basis, denies them.

20 46. This Paragraph contains legal conclusions which require no answer. To the extent an
21 answer is required, the Foundation denies the allegations of this Paragraph.

22 **II. INTERNET ARCHIVE BUILT A MASS INFRINGEMENT PLATFORM THAT** **FLOUTS THE MUSIC MODERNIZATION ACT.**

24 47. The Foundation lacks knowledge sufficient to admit or deny the allegations of this
25 Paragraph, and on that basis, denies them. With respect to allegations that purport to cite or quote other
26 documents or sources, such documents speak for themselves.

27 48. The Foundation lacks knowledge sufficient to admit or deny the allegations of this
28 Paragraph, and on that basis, denies them.

49. The Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

50. The Foundation admits that the screenshot in this Paragraph of the Amended Complaint purports to be of a Great 78 Project webpage for the sound recording, "White Christmas," recorded by Bing Crosby, with a publication date in 1942 by Decca Records. The Foundation lacks knowledge sufficient to admit or deny the remaining allegations of this Paragraph, and on that basis, denies them.

51. With respect to allegations that purport to cite or quote other documents or sources, such documents speak for themselves. The Foundation lacks knowledge sufficient to admit or deny the remaining allegations denies the remaining allegations of this Paragraph, and on that basis, denies them.

52. With respect to allegations that purport to cite or quote other documents or sources, such documents speak for themselves. The Foundation lacks knowledge sufficient to admit or deny the remaining allegations of this Paragraph, and on that basis, denies them.

53. With respect to allegations that purport to cite or quote other documents or sources, such documents speak for themselves. The Foundation lacks knowledge sufficient to admit or deny the remaining allegations of this Paragraph, and on that basis, denies them.

54. The Foundation lacks knowledge sufficient to admit or deny the allegations in this Paragraph concerning George Blood, and on that basis, denies them. Mr. Kahle's alleged actions in this Paragraph are outside the scope of his position as an officer of the Foundation. The Foundation therefore lacks knowledge sufficient to admit or deny the remaining allegations of this Paragraph, and on that basis, denies them. The Foundation denies the remaining allegations of this Paragraph.

55. With respect to allegations that purport to cite or quote other documents or sources, such documents speak for themselves. The Foundation lacks knowledge sufficient to admit or deny the remaining allegations of this Paragraph, and on that basis, denies them.

56. With respect to allegations that purport to cite or quote other documents or sources, such documents speak for themselves. Mr. Kahle's alleged actions in this Paragraph are outside the scope of his position as an officer of the Foundation. The Foundation therefore lacks knowledge sufficient to admit or deny the remaining allegations of this Paragraph, and on that basis, denies them. The Foundation lacks

1 knowledge sufficient to admit or deny the remaining allegations of this Paragraph, and on that basis, denies
2 them.

3 57. The Foundation admits that this Paragraph of the Amended Complaint contains a
4 screenshot purportedly showing a banner from a web page for the Great 78 Project. The Foundation lacks
5 knowledge sufficient to admit or deny the remaining allegations of this Paragraph, and on that basis, denies
6 them.

7 58. This Paragraph contains legal conclusions which require no answer. To the extent an
8 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
9 Paragraph, and on that basis, denies them.

10 59. This Paragraph contains legal conclusions which require no answer. To the extent an
11 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
12 Paragraph, and on that basis, denies them.

13 60. This Paragraph contains legal conclusions which require no answer. To the extent an
14 answer is required, Mr. Kahle's alleged actions in this Paragraph are outside the scope of his position as
15 an officer of the Foundation. The Foundation therefore lacks knowledge sufficient to admit or deny the
16 allegations of this Paragraph, and on that basis, denies them. With respect to allegations that purport to
17 cite or quote other documents or sources, such documents speak for themselves. The Foundation lacks
18 knowledge sufficient to admit or deny the remaining allegations of this Paragraph, and on that basis, denies
19 them.

20 61. This Paragraph contains legal conclusions which require no answer. To the extent an
21 answer is required, Mr. Kahle's alleged actions are outside the scope of his position as an officer of the
22 Foundation. The Foundation therefore lacks knowledge sufficient to admit or deny the allegations of this
23 Paragraph, and on that basis, denies them. With respect to allegations that purport to cite or quote other
24 documents or sources, such documents speak for themselves. The Foundation lacks knowledge sufficient
25 to admit or deny the remaining allegations of this Paragraph, and on that basis, denies them.

26 62. This Paragraph contains legal conclusions which require no answer. To the extent an
27 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
28 Paragraph, and on that basis, denies them.

III. DEFENDANTS' INFRINGEMENT IS OF STAGGERING SCALE.

63. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them. With respect to allegations that purport to cite or quote other documents or sources, such documents speak for themselves.

64. The recording available at the link https://archive.org/details/78_white-christmas_irving-berlin-bingcrosby-ken-darby-singers-john-scott-trotter-and_gbia0000275a speaks for itself. The Foundation lacks knowledge sufficient to admit or deny the remaining allegations of this Paragraph, and on that basis, denies them.

65. The recording available at the link https://archive.org/details/78_young-at-heart_frank-sinatra-nelson-riddle-johnny-richards-carolyn-leigh_gb10012315a speaks for itself. The Foundation lacks knowledge sufficient to admit or deny the remaining allegations of this Paragraph, and on that basis, denies them.

66. The recording available at the link https://archive.org/details/78_saturday-night-is-the-loneliest-night-in-the-week frank-sinatra-axel-stordahl-cah_gb1a0017538a speaks for itself. The Foundation lacks knowledge sufficient to admit or deny the remaining allegations of this Paragraph, and on that basis, denies them.

67. The recording available at the link https://archive.org/details/78_potato-head-blues_louis-armstrong-and-his-hot-seven-armstrong_gb10261792a speaks for itself. The Foundation lacks knowledge sufficient to admit or deny the remaining allegations of this Paragraph, and on that basis, denies them.

68. The recording available at the link https://archive.org/details/78_monks_dream_thelonious-monk-trio-thelonious-monk-art-blakey-gary-mapp-monk_gb10254273b speaks for itself. The Foundation lacks knowledge sufficient to admit or deny the remaining allegations of this Paragraph, and on that basis, denies them.

69. The Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

1

IV. BREWSTER KAHLE OVERSEES AND DIRECTS INTERNET ARCHIVE'S

INFRINGEMENT

2

70. This Paragraph contains legal conclusions which require no answer. Mr. Kahle's alleged
3 actions in this Paragraph and his alleged role with the Internet Archive are outside the scope of his position
4 as an officer of the Foundation. The Foundation therefore lacks knowledge sufficient to admit or deny
5 the allegations of this Paragraph, and on that basis, denies them. With respect to allegations that purport
6 to cite or quote other documents or sources, such documents speak for themselves.

7

71. Mr. Kahle's alleged actions in this Paragraph are outside the scope of his position as an
8 officer of the Foundation. The Foundation therefore lacks knowledge sufficient to admit or deny the
9 allegations of this Paragraph, and on that basis, denies them. With respect to allegations that purport to
10 cite or quote other documents or sources, such documents speak for themselves.

11

72. Mr. Kahle's alleged actions in this Paragraph are outside the scope of his position as an
12 officer of the Foundation. The Foundation therefore lacks knowledge sufficient to admit or deny the
13 allegations of this Paragraph, and on that basis, denies them. With respect to allegations that purport to
14 cite or quote other documents or sources, such documents speak for themselves.

15

73. Mr. Kahle's alleged actions in this Paragraph are outside the scope of his position as an
16 officer of the Foundation. The Foundation therefore lacks knowledge sufficient to admit or deny the
17 allegations of this Paragraph, and on that basis, denies them. With respect to allegations that purport to
18 cite or quote other documents or sources, such documents speak for themselves.

19

74. Mr. Kahle's alleged actions are outside the scope of his position as an officer of the
20 Foundation. The Foundation therefore lacks knowledge sufficient to admit or deny the allegations of this
21 Paragraph, and on that basis, denies them. With respect to allegations that purport to cite or quote other
22 documents or sources, such documents speak for themselves. The Foundation denies the remaining
23 allegations of this Paragraph.

24

V. THE KAHLE/AUSTIN FOUNDATION SPONSORS INTERNET ARCHIVE'S

INFRINGEMENT.

26

75. The Foundation admits that Mr. Kahle and his wife established the Kahle/Austin
27 Foundation. With respect to allegations that purport to cite or quote other documents or sources, such
28 documents speak for themselves. The Foundation denies the remaining allegations in this Paragraph.

1 76. This Paragraph contains legal conclusions which require no answer. To the extent an
2 answer is required, the Foundation lacks knowledge sufficient to admit or deny to allegations of this
3 Paragraph concerning the Internet Archive, on that basis denies them. The Foundation denies the
4 remaining allegations of this Paragraph.

5 **VI. DEFENDANTS KNEW THEIR CONDUCT WAS INFRINGING.**

6 77. This Paragraph contains legal conclusions which require no answer. To the extent an
7 answer is required, the Foundation denies the allegations of this Paragraph. With respect to allegations
8 that purport to cite or quote other documents or sources, such documents speak for themselves.

9 78. The Foundation lacks knowledge sufficient to admit or deny the allegations of this
10 Paragraph, and on that basis, denies them.

11 79. This Paragraph contains legal conclusions which require no answer. To the extent an
12 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
13 Paragraph, and on that basis, denies them.

14 80. The Foundation lacks knowledge sufficient to admit or deny the allegations of this
15 Paragraph, and on that basis, denies them. With respect to allegations that purport to cite or quote other
16 documents or sources, such documents speak for themselves.

17 81. This Paragraph contains legal conclusions which require no answer. To the extent an
18 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
19 Paragraph concerning the Internet Archive, and on that basis, denies them. Moreover, Mr. Kahle's alleged
20 actions are outside the scope of his position as an officer of the Foundation. The Foundation therefore
21 lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies
22 them. With respect to allegations that purport to cite or quote other documents or sources, such documents
23 speak for themselves.

24 82. This Paragraph contains legal conclusions which require no answer. To the extent a
25 response is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
26 Paragraph, and on that basis, denies them. With respect to allegations that purport to cite or quote other
27 documents or sources, such documents speak for themselves.

83. The Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them. With respect to allegations that purport to cite or quote other documents or sources, such documents speak for themselves.

84. The Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them. With respect to allegations that purport to cite or quote other documents or sources, such documents speak for themselves.

85. The Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them. With respect to allegations that purport to cite or quote other documents or sources, such documents speak for themselves.

86. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them. With respect to allegations that purport to cite or quote other documents or sources, such documents speak for themselves.

87. The Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them. With respect to allegations that purport to cite or quote other documents or sources, such documents speak for themselves.

88. The Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them. Moreover, Mr. Kahle's alleged actions are outside the scope of his position as an officer of the Foundation. The Foundation therefore lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them. With respect to allegations that purport to cite or quote other documents or sources, such documents speak for themselves.

89. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

90. The Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them. With respect to allegations that purport to cite or quote other documents or sources, such documents speak for themselves.

1 91. The Foundation lacks knowledge sufficient to admit or deny the allegations of this
2 Paragraph, and on that basis, denies them. With respect to allegations that purport to cite or quote other
3 documents or sources, such documents speak for themselves.

4 92. The Foundation lacks knowledge sufficient to admit or deny the allegations of this
5 Paragraph, and on that basis, denies them. With respect to allegations that purport to cite or quote other
6 documents or sources, such documents speak for themselves.

7 **VII. DEFENDANTS' INFRINGEMENT HAS SIGNIFICANTLY HARMED PLAINTIFFS.**

8 93. This Paragraph contains legal conclusions which require no answer. To the extent an
9 answer is required, the Foundation denies the allegations of this Paragraph.

10 **CLAIMS FOR RELIEF**

11 **FIRST CAUSE OF ACTION**
12 **Infringing Reproduction against Internet Archive, Blood, and GBLP**

13 94. The Foundation incorporates each of its responses to paragraphs 1-93 as though fully set
14 forth herein.

15 95. The Foundation lacks knowledge sufficient to admit or deny the allegations of this
16 Paragraph, and on that basis, denies them.

17 96. This Paragraph contains legal conclusions which require no answer. To the extent an
18 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
19 Paragraph, and on that basis, denies them.

20 97. This Paragraph contains legal conclusions which require no answer. To the extent an
21 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
22 Paragraph, and on that basis, denies them.

23 98. This Paragraph contains legal conclusions which require no answer. To the extent an
24 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
25 Paragraph, and on that basis, denies them.

26 99. This Paragraph contains legal conclusions which require no answer. To the extent an
27 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
28 Paragraph, and on that basis, denies them.

100. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

101. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

102. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

SECOND CAUSE OF ACTION
Infringing Reproduction and Distribution against Internet Archive

103. The Foundation incorporates each of its responses to paragraphs 1-94 as though fully set forth herein.

104. The Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

105. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

106. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

107. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

108. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

109. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

110. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

111. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

THIRD CAUSE OF ACTION

112. The Foundation incorporates each of its responses to paragraphs 1-94 as though fully set forth herein.

113. The Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

114. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

115. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

116. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

117. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

118. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

119. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

120. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

FOURTH CAUSE OF ACTION
Contributory Infringement against Internet Archive

121. The Foundation incorporates each of its responses to paragraphs 1-94 as though fully set forth herein.

122. The Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

123. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

124. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

125. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

126. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

1 127. This Paragraph contains legal conclusions which require no answer. To the extent an
2 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
3 Paragraph, and on that basis, denies them.

4 128. This Paragraph contains legal conclusions which require no answer. To the extent an
5 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
6 Paragraph, and on that basis, denies them.

7 129. This Paragraph contains legal conclusions which require no answer. To the extent an
8 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
9 Paragraph, and on that basis, denies them.

10 130. This Paragraph contains legal conclusions which require no answer. To the extent an
11 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
12 Paragraph, and on that basis, denies them.

13 131. This Paragraph contains legal conclusions which require no answer. To the extent an
14 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
15 Paragraph, and on that basis, denies them.

16 132. This Paragraph contains legal conclusions which require no answer. To the extent an
17 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
18 Paragraph, and on that basis, denies them.

19 133. This Paragraph contains legal conclusions which require no answer. To the extent an
20 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
21 Paragraph, and on that basis, denies them.

22 134. This Paragraph contains legal conclusions which require no answer. To the extent an
23 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
24 Paragraph, and on that basis, denies them.

FIFTH CAUSE OF ACTION
Inducement of Infringement against Internet Archive

27 135. The Foundation incorporates each of its responses to paragraphs 1-94 as though fully set
28 forth herein.

136. The Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

137. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

138. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

139. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

140. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

141. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

142. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

143. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

144. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

1 145. This Paragraph contains legal conclusions which require no answer. To the extent an
2 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
3 Paragraph, and on that basis, denies them.

SIXTH CAUSE OF ACTION
Vicarious Infringement against Internet Archive

6 146. The Foundation incorporate each of its responses to paragraphs 1-94 as though fully set
7 forth herein.

8 147. The Foundation lacks knowledge sufficient to admit or deny the allegations of this
9 Paragraph, and on that basis, denies them.

10 148. This Paragraph contains legal conclusions which require no answer. To the extent an
11 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
12 Paragraph, and on that basis, denies them.

13 149. This Paragraph contains legal conclusions which require no answer. To the extent an
14 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
15 Paragraph, and on that basis, denies them.

16 150. This Paragraph contains legal conclusions which require no answer. To the extent an
17 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
18 Paragraph, and on that basis, denies them.

19 151. This Paragraph contains legal conclusions which require no answer. To the extent an
20 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
21 Paragraph, and on that basis, denies them.

152. This Paragraph contains legal conclusions which require no answer. To the extent an
answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
Paragraph, and on that basis, denies them.

25 153. This Paragraph contains legal conclusions which require no answer. To the extent an
26 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
27 Paragraph, and on that basis, denies them.

154. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

155. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

156. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

157. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

SEVENTH CAUSE OF ACTION
Contributory Infringement against Kahle

158. The Foundation incorporates each of its responses to paragraphs 1-94 as though fully set forth herein.

159. The Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

160. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, as the alleged actions concerning Mr. Kahle relate to activities conducted outside his capacity as an officer of the Foundation. On that basis, the Foundation denies the allegations in this Paragraph.

161. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, as the alleged actions concerning Mr. Kahle relate to activities conducted outside his capacity as an officer of the Foundation. On that basis, the Foundation denies the allegations in this Paragraph.

162. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this

1 Paragraph, as the alleged actions concerning Mr. Kahle relate to activities conducted outside his capacity
2 as an officer of the Foundation. On that basis, the Foundation denies the allegations in this Paragraph.

3 163. This Paragraph contains legal conclusions which require no answer. To the extent an
4 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
5 Paragraph, as the alleged actions concerning Mr. Kahle relate to activities conducted outside his capacity
6 as an officer of the Foundation. On that basis, the Foundation denies the allegations in this Paragraph.

7 164. This Paragraph contains legal conclusions which require no answer. To the extent an
8 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
9 Paragraph, as the alleged actions concerning Mr. Kahle relate to activities conducted outside his capacity
10 as an officer of the Foundation. On that basis, the Foundation denies the allegations in this Paragraph.

11 165. This Paragraph contains legal conclusions which require no answer. To the extent an
12 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
13 Paragraph, as the alleged actions concerning Mr. Kahle relate to activities conducted outside his capacity
14 as an officer of the Foundation. On that basis, the Foundation denies the allegations in this Paragraph.

15 166. This Paragraph contains legal conclusions which require no answer. To the extent an
16 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
17 Paragraph, as the alleged actions concerning Mr. Kahle relate to activities conducted outside his capacity
18 as an officer of the Foundation. On that basis, the Foundation denies the allegations in this Paragraph.

19 167. This Paragraph contains legal conclusions which require no answer. To the extent an
20 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
21 Paragraph, as the alleged actions concerning Mr. Kahle relate to activities conducted outside his capacity
22 as an officer of the Foundation. On that basis, the Foundation denies the allegations in this Paragraph.

23 168. This Paragraph contains legal conclusions which require no answer. To the extent an
24 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
25 Paragraph, as the alleged actions concerning Mr. Kahle relate to activities conducted outside his capacity
26 as an officer of the Foundation. On that basis, the Foundation denies the allegations in this Paragraph.

27

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EIGHTH CAUSE OF ACTION

Contributory Infringement against the Foundation

3 169. The Foundation incorporates each of its responses to paragraphs 1-94 as though fully set
4 forth herein.

5 170. The Foundation lacks knowledge sufficient to admit or deny the allegations of this
6 Paragraph, and on that basis, denies them.

7 171. This Paragraph contains legal conclusions which require no answer. To the extent an
8 answer is required, the Foundation denies the allegations of this Paragraph.

9 172. This Paragraph contains legal conclusions which require no answer. To the extent an
10 answer is required, the Foundation denies the allegations of this Paragraph.

11 173. This Paragraph contains legal conclusions which require no answer. To the extent an
12 answer is required, Mr. Kahle's alleged actions concerning the Great 78 Project and his role at the Internet
13 Archive are outside the scope of his position as an officer of the Foundation. On that basis, the Foundation
14 denies the allegations of this Paragraph concerning Mr. Kahle. The Foundation denies all remaining
15 allegations of this Paragraph.

16 174. This Paragraph contains legal conclusions which require no answer. To the extent an
17 answer is required, the Foundation denies the allegations of this Paragraph.

18 175. This Paragraph contains legal conclusions which require no answer. To the extent an
19 answer is required, the Foundation denies the allegations of this Paragraph.

176. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation denies the allegations of this Paragraph. The Foundation further denies that Plaintiffs are entitled to any damages.

177. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation denies the allegations of this Paragraph. The Foundation further denies that Plaintiffs are entitled to attorneys' fees or costs.

178. This Paragraph contains legal conclusions which require no answer. To the extent an
answer is required, the Foundation denies the allegations of this Paragraph. The Foundation further denies
that Plaintiffs are entitled to injunctive relief.

NINTH CAUSE OF ACTION
Contributory Infringement against Blood and GBLP

179. The Foundation incorporates each of its responses to paragraphs 1-94 as though fully set forth herein.

180. The Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

181. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

182. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

183. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

184. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

185. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

186. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

187. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

1 188. This Paragraph contains legal conclusions which require no answer. To the extent an
2 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
3 Paragraph, and on that basis, denies them.

TENTH CAUSE OF ACTION
Vicarious Infringement against Blood

6 189. The Foundation incorporates each of its responses to paragraphs 1-94 as though fully set
7 forth herein.

8 190. The Foundation lacks knowledge sufficient to admit or deny the allegations of this
9 Paragraph, and on that basis, denies them.

10 191. This Paragraph contains legal conclusions which require no answer. To the extent an
11 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
12 Paragraph, and on that basis, denies them.

13 192. This Paragraph contains legal conclusions which require no answer. To the extent an
14 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
15 Paragraph, and on that basis, denies them.

16 193. This Paragraph contains legal conclusions which require no answer. To the extent an
17 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
18 Paragraph, and on that basis, denies them.

19 194. This Paragraph contains legal conclusions which require no answer. To the extent an
20 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
21 Paragraph, and on that basis, denies them.

22 195. This Paragraph contains legal conclusions which require no answer. To the extent an
23 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
24 Paragraph, and on that basis, denies them.

25 196. This Paragraph contains legal conclusions which require no answer. To the extent an
26 answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this
27 Paragraph, and on that basis, denies them.

197. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

198. This Paragraph contains legal conclusions which require no answer. To the extent an answer is required, the Foundation lacks knowledge sufficient to admit or deny the allegations of this Paragraph, and on that basis, denies them.

PRAYER FOR RELIEF

In response to the Prayer for Relief, the Foundation denies Plaintiffs are entitled to any relief—including without limitation the relief requested.

DEFENSES

The Foundation asserts at least the following defenses in response to the allegations in the Amended Complaint. The Foundation reserves all rights to assert additional defenses, including affirmative defenses.

FIRST DEFENSE

Failure to State a Claim

The Amended Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Fair Use

Any use of Plaintiffs' copyrighted materials is protected by the Fair Use Doctrine, including under 17 U.S.C. §§ 107 and 1401.

THIRD DEFENSE Innocent Infringement

The Foundation had no reason to believe any of its actions constituted contributory infringement of Plaintiffs' copyrights, allowing the Court to reduce any award of statutory damages to an amount as low as \$200 per work infringed. 17 U.S.C. § 504(c)(2).

FOURTH DEFENSE No material contribution

Assuming Plaintiffs prove infringement, any donations the Foundation made to the Internet Archive do not constitute a material contribution.

FIFTH DEFENSE No knowledge

Assuming Plaintiffs prove Mr. Kahle's knowledge of infringement, such knowledge cannot be imputed to the Foundation because such knowledge: is outside the scope of Mr. Kahle's duties to the Foundation, acquired when Mr. Kahle was not acting on behalf of the Foundation, acquired while Mr. Kahle was acting in his own interests rather than in the interests of the Foundation, and/or related to Mr. Kahle's personal objectives with respect to the Great78 Project.

SIXTH DEFENSE No Willfulness

There was no willful infringement by the Foundation; accordingly, Plaintiffs' claims for enhanced damages have no basis and should be denied.

SEVENTH DEFENSE No Statutory Damages

Pursuant to 17 U.S.C. § 504(c)(2), Plaintiffs are not entitled to statutory damages, and statutory damages must be remitted, because the Foundation believed and had reasonable grounds for believing that the accused infringing uses of Plaintiffs' copyrighted works were a fair use, including under sections 107 and 1401, and the Internet Archive is an institution, library, or archive accused of having infringed by reproducing works in copies or phonorecords.

EIGHTH DEFENSE

Plaintiffs Lack Ownership Rights

Plaintiffs' claims are barred for works in which they do not own copyrights.

NINTH DEFENSE

Statute of Limitations

Plaintiffs' claims are barred, in whole or in part, by the applicable statute of limitations under 17 U.S.C. § 507(b).

TENTH DEFENSE

Laches

Plaintiffs' remedies are barred, in whole or in part, by the doctrine of laches.

ELEVENTH DEFENSE

Estoppel and Other Equitable Doctrines

12 Plaintiffs' claims are barred, in whole or in part, by equitable estoppel, acquiescence, waiver, *in*
13 *pari delicto*, unclean hands, ratification, and/or other related equitable doctrines.

TWELFTH DEFENSE

Copyright Misuse

16 Plaintiffs' claims are barred, in whole or in part, by the doctrine of copyright misuse because
17 Plaintiffs have violated the antitrust laws, otherwise illegally extended their lawful copyright monopolies,
18 or violated the public policies underlying the copyright laws.

PRAYER FOR RELIEF

WHEREFORE, the Foundation respectfully asks the Court to:

1. Deny Plaintiffs' request for relief;
2. Dismiss the Amended Complaint with prejudice and enter judgment in favor of the Foundation;
3. Award the Foundation its attorneys' fees and costs incurred in this action, and any other amounts recoverable under law; and
4. Award the Foundation such other and further relief as the Court deems just and equitable.

The Foundation reiterates its demand for a jury trial.

1 DATED: May 31, 2024

Respectfully submitted,

2 CONRAD | METLITZKY | KANE LLP

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4
5 /s/ Jessica E. Lanier
6 MARK R. CONRAD
7 JESSICA E. LANIER

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Attorneys for Defendant Kahle/Austin Foundation